

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE NORTHERN DISTRICT OF CALIFORNIA

3 SHERROD KEARNEY, No. C 09-05308 CW (PR)

4 Petitioner,

ORDER OF DISMISSAL

5 v.

6 G. SWARTHOUT, Warden,

7 Respondent.

8 _____/

9 On November 9, 2009, Petitioner filed a pro se petition for a
10 writ of habeas corpus pursuant to 28 U.S.C. § 2254. He also filed
11 an "Ex Parte Application to Stay Proceedings Pending Exhaustion of
12 State Court Remedies." On that same date, the Clerk of the Court
13 sent Petitioner a notice directing him to pay the requisite \$5.00
14 filing fee or to file a completed in forma pauperis (IFP)
15 application within thirty days or his action would be dismissed.
16 More than thirty days have passed and Petitioner has not paid the
17 filing fee, completed an IFP application, or otherwise communicated
18 with the Court. The Court cannot conduct an initial review of this
19 matter or respond to Petitioner's request for a stay because he has
20 neither paid the filing fee nor completed an IFP application. See
21 28 U.S.C. § 1915(a) (a party is permitted to file a civil action in
22 federal court without prepayment of fees or security if he makes
23 affidavit that he is unable to pay such fees or give security
24 therefor).

25 Accordingly, this action is DISMISSED WITHOUT PREJUDICE. The
26 Clerk of the Court shall close the file.

27 IT IS SO ORDERED.

28 Dated: 12/10/09



CLAUDIA WILKEN
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

SHERROD KEARNEY,

Case Number: CV09-05308 CW

Plaintiff,

CERTIFICATE OF SERVICE

V.

G. SWARTHOUT et al,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on December 10, 2009, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Sherrod Kearney F-26829
CSP-Solano
P.O. Box 4000
Vacaville, CA 95696-4000

Dated: December 10, 2009

Richard W. Wieking, Clerk
By: Sheilah Cahill, Deputy Clerk